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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,302	03/17/2004	Deborah Shelley	SHE	3037

7590 12/28/2005
Thomas L. Adams
120 Eagle Rock Avenue
P.O. Box 340
New Jersey, NJ 07936

EXAMINER

DOAN, ROBYN KIEU

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/801,302	Applicant(s) SHELLEY, DEBORAH	
	Examiner Robyn Doan	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☒ Claim(s) 19 is/are allowed.
 6) ☒ Claim(s) 1-14 and 16-18 is/are rejected.
 7) ☒ Claim(s) 15 is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/20/04</u> . | 6) <input checked="" type="checkbox"/> Other: <u>Attachment A,B,C</u> . |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: there is an inconsistency in the title of the invention, for example, the title in the specification recites as "Banner Holder", however it recites as "Template and method for applying makeup to eyebrows" in the abstract, oath and IDS.

Appropriate correction is required.

Claim 3 is objected to because of the following informalities: in claim 3, line 1 change "stem" to --stems--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-7, 9-10 and 16, 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Wosse (U.S. Pat. # 1,812,425).

With regard to claim 1, Wosse discloses an eyebrow stencil (figs. 1, 5, 9) comprising a saddle (11) that is shaped to be placed against the bridge of a person's

nose (col. 4, lines 96-97), a pair of guides (10, fig. 9) each attached to the saddle and each having a guide opening (12) for guiding the application of makeup to the person's eyebrows. In regard to claim 2, Wosse shows a pair of stems (see attachment A) each connecting a corresponding one of the guides to the saddle. In regard to 3, Wosse also show the stems being flexible to allow spatial adjustment of the pair of guides (col. 4, lines 115-119, it is noted that the stems are a part of the saddle (bridge)). In regard to claims 4, 6-7, Wosse discloses the pair of stems having converging proximal sections and diverging distal sections (see attachment B), the guides being elongate loops, see fig. 3, and the loops each having a convex upper edge and a concave lower edge (fig. 5, col. 4, lines 76-79). In regard to claims 9 and 10, Wosse also shows the guides being structures to prevent a distortion of the guide openings and being flexible (col. 4, lines 120-123) to curve around the person's forehead (fig. 1) without altering the size of the guide openings. In regard to claims 16 and 17, Wosse further discloses a method of employing a pair of templates attached by stems to a saddle (fig. 1) by placing the saddle against the bridge of the person's nose and applying makeup to the person's eyebrows using the templates to guide makeup application (col. 3, lines 53-60). Wosse also shows the saddle (bridge) being flexible to adapted to be opened or compressed (col. 4, lines 96-99), therefore, it inherently shows the step of flexing the stems to align the template over the person's eyebrows.

Claims 1, 5 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Chateau (U.S. Pat. # 3,718,145).

With regard to claim 1, Chateau discloses an eyebrow stencil and method of applying it (fig. 1) comprising a saddle (18) that is shaped to be inherently placed against the bridge of a person's nose, a pair of guides (12) each attached to the saddle and each having a guide opening (14, 16) for guiding the application of makeup to the person's eyebrows. In regard to claim 5, Chateau shows the saddle being downwardly flared (18 flared out into two portions see attachment C) to inherently have a larger opening width below. In regard to claim 16, Chateau discloses a method of employing a pair of templates attached by stems to a saddle (fig. 1) by placing the saddle against the bridge of the person's nose (fig. 10) and applying makeup to the person's eyebrows using the templates to guide makeup application (col. 4, lines 48-54).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chateau.

With regard to claim 18, Chateau discloses a method of applying makeup to a person's eyebrows as discussed above in claim 16, Chateau also shows a large stock of stencils is provided for each style of the stencil openings (col. 3, lines 70-74).

Chateau does not disclose a step of replacing the templates to change the style of the outline of the templates, however, it would have been an obvious matter of choice to one of ordinary skill in the art at the time the invention was made to replace the templates from the large stock of stencils to change the style of the outline of the templates.

Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wosse in view of Karafilis (U.S. Pat. # 5,957,142).

With regard to claims 11-14, Wosse discloses the eyebrow stencil comprising all the claimed limitations in claim 2 as discussed above except for the saddle having a spaced pair of sockets, the stems each having a tip sized to be replaceably inserted in one of the sockets, the stems each having a plastic coated wire. Wosse also does not disclose the guides each having a plastic coated piece of sheet metal. Karafilis discloses an apparatus for helping application of eye makeup (fig. 3) comprising a shield (30) having a spaced pair of sockets (40, 42), a pair of stems (14, 16) each having a tip (24, 26) sized to be replaceably inserted in one of the sockets. Karafilis also discloses the stems may be made of plastic material (col. 2, lines 54-55) and the shield being made of flexible rubber or silicone material (col. 3, lines 23-24). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the pair of sockets and stems as taught by Karafilis into the saddle (bridge) of Wosse for the purpose of replacing a new template (col. 5, lines 52-55). It would also have been obvious to use each of the stems having a plastic coated wire

and each of the guides having a plastic coated piece of sheet metal as one would have expected equivalent function.

Allowable Subject Matter

Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 19 is allowable over prior art of record.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hoffman, Everett et al, Peugh and Girouard are cited to show the state of the art with respect to a sunshield with a nose protector. Comiskey et al is cited to show the state of the art with respect to a stencil with a saddle.

The drawings filed 03/17/04 have been approved by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (571) 272-4711. The examiner can normally be reached on Mon-Fri 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Robyn', with a long, sweeping horizontal line extending to the right.

Robyn Doan
Examiner
Art Unit 3732

June 30, 1931.

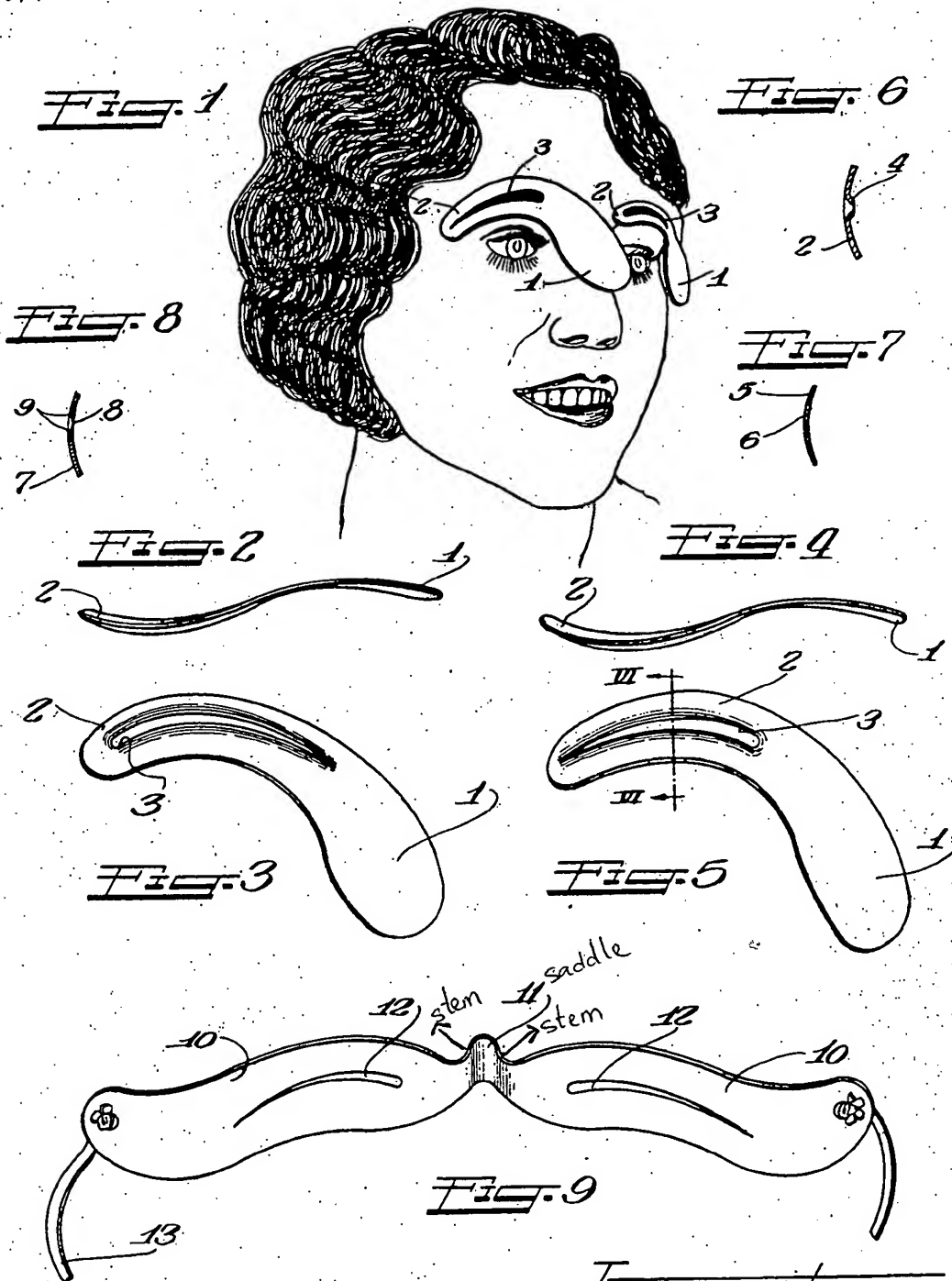
G. WOSSE

1,812,425

EYEBROW STENCIL

Filed Aug. 30, 1929

Attachment A



Inventor:
Gerd Wosse.

By: *Charles W. Allen* Attorney

June 30, 1931.

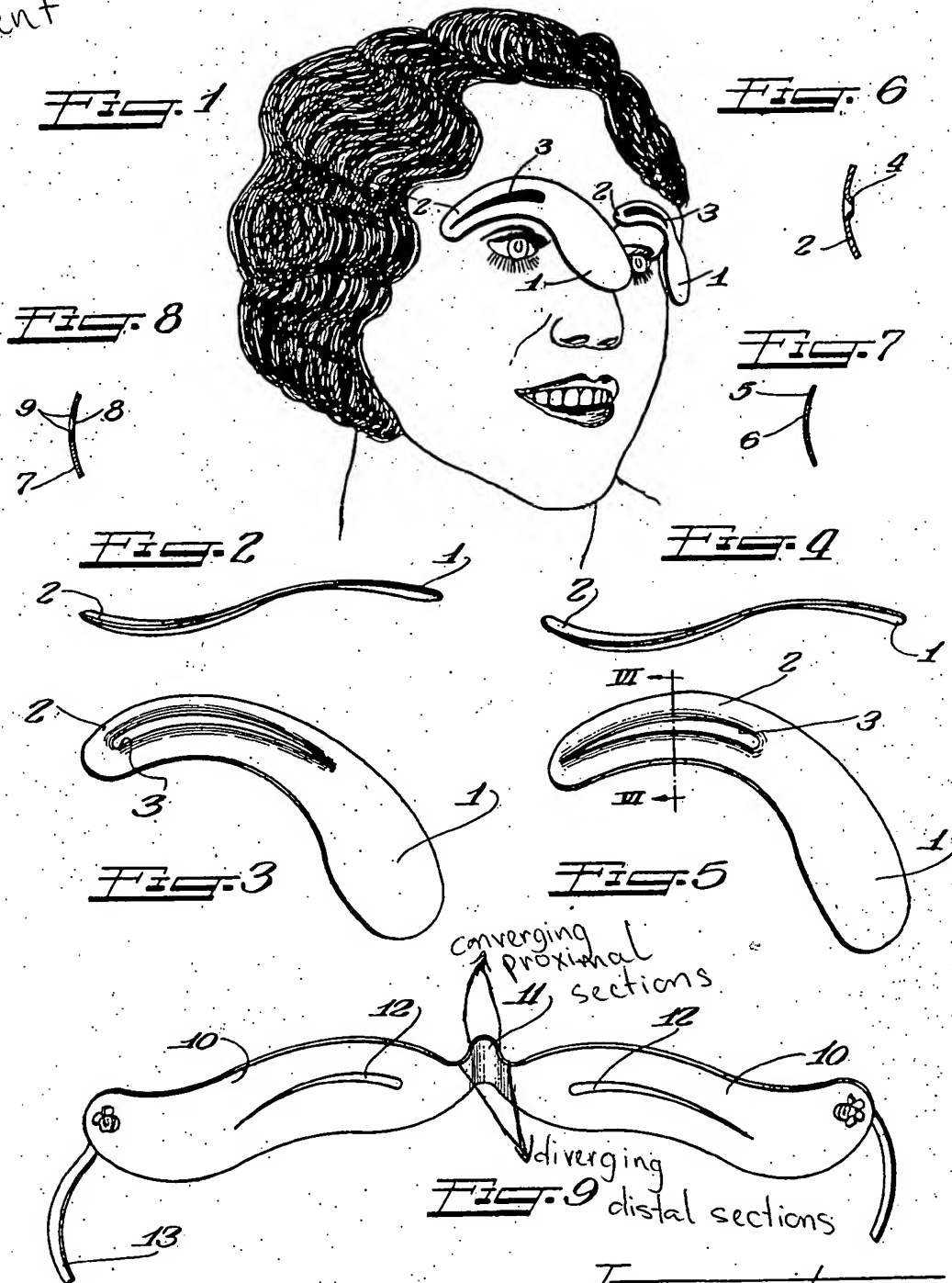
G. WOSSE

1,812,425

EYEBROW STENCIL

Filed Aug. 30, 1929

Attachment
B



Inventor:
Gerd Wosse.

By: *Charles Hall* Attorney

Feb. 27, 1973

F. D. CHATEAU

3,718,145

EYEBROW STENCILLING METHOD AND APPARATUS

Filed Feb. 23, 1971

3 Sheets-Sheet 1

Attachment C

